

REMARKS / ARGUMENTS

The present application includes pending claims 1-31, all of which have been rejected. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-31 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,240,555 ("Shoff"). The Applicant respectfully traverses these rejections at least based on the following remarks.

I. Examiner's Response to Applicant's Arguments

The Final Office Action states the following:

Applicant's arguments, see Reply Pages 12-17, with respect to the teachings of Walker et al. in addressing the limitations of Claims 1, 11, and 21 have been fully considered, but are moot in view of new grounds of rejection. However, in response to Applicant's arguments regarding the interpretation of the claim language "supplemental information" as equivalent to "synchronized functionality", the Examiner respectfully disagrees and notes that "supplemental information" is only mentioned in dependent Claims 7, 17, and 27; not Claims 1, 11, and 21; the Examiner does not interpret these terms to be equivalent.

See Final Office Action at pages 2-3. Even though the Examiner is no longer relying on Walker, the Applicant will briefly address the above statements for completeness. With reference to Applicant's language regarding interpretation of the claim language (e.g., page 14 of the 11/06/08 response), the Applicant was simply pointing out that Applicant's "synchronized functionality" (as used in Applicant's claim 1) was equated by the Examiner to Walker's "supplemental information" (See 08/20/08

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Office Action at page 3). The Applicant was not referring to "supplemental information" as used in claim 7 by the Applicant.

The Final Office Action further states:

Applicant's arguments, see Reply Pages 17-19, with respect to the teachings of Shoff et al. in addressing the limitations of Claims 1, 11, and 21 have been fully considered, but are not persuasive.

Applicant presents that Shoff does not disclose or suggest the Claim 1 limitation "wherein said at least one synchronized functionality originates from the same broadcast provider location as the broadcast television program" because "the broadcast video signals are re-transmitted since they originate from a satellite feed or a cable system feed, i.e., remotely from the headend 22" (Reply Page 18). The Examiner respectfully disagrees.

The Examiner notes that Applicant provides no support for Shoff teaching the retransmission of broadcast video signals from headend 22 and further notes that Fig. 2 of Shoff demonstrates headend 22 as the only source of information. The Examiner also notes that Applicant's Claim 1 requires that the "synchronized functionality originates", but a point of origin for the broadcast programming is not required. Therefore, it is the Examiner's position that Shoff teaches the transmission of broadcast video (i.e. video programs 40) and synchronized functionality (as part of supplemental content 54) from the same broadcast provider (headend 22) to viewer computing unit 24 by way of network 32, as shown in Fig. 2 and described in Col. 4 Lines 42-61.

See Final Office Action at page 3. The Applicant respectfully disagrees. The relevant language from Applicant's claim 1 is "wherein said at least one synchronized functionality originates from the same broadcast provider location as the broadcast television program." The Applicant maintains that this language is sufficiently clear on its face, providing that the broadcast television program and the synchronized

functionality originate from the same broadcast provider location, which is not disclosed by Shoff. Additional deficiencies of Shoff are explained herein below.

REJECTION UNDER 35 U.S.C. § 102

II. Shoff Does Not Anticipate Claims 1-31

The Applicant now turns to the rejection of claims 1-31 under 35 U.S.C. 102(e) as being anticipated by Shoff. With regard to the anticipation rejections under 102(e), MPEP 2131 states that “[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See id. (internal citation omitted).

Without conceding that Shoff qualifies as prior art under 35 U.S.C. 102(e), the Applicant respectfully traverses this rejection as follows.

A. Rejection of Independent Claims 1, 11, and 21

With regard to the rejection of independent claim 1 under 35 U.S.C. § 102(e), the Applicant submits that Shoff does not disclose or suggest at least the limitation of “the broadcast television program and said at least one synchronized functionality being of

the same format and for display on a television screen within a home," as recited by the Applicant in independent claim 1.

The Final Office Action states the following:

With respect to Claim 1, Shoff teaches a method for providing access to information related to a broadcast television program (generally shown in Figs. 2, 6, 7, and 9), the method comprising:

delivering, via a single communication path, the broadcast television program along with *at least one synchronized functionality associated with the broadcast television program ("target resource contains digital data which supports interactive functionality in conjunction with the associated video content program"* and that defines parameters such as display layout or timing information to synchronize the presentation, as described in Col. 9 Line 66-Col. 10 Line 17; with further reference to "the digital data is packaged with the video stream and transmitted as one signal from the headend", as described in Col. 10 Lines 17-24 and Network 32 of Fig. 2), *the broadcast television program and said at least one synchronized functionality being of the same format and for display on a television screen within a home (transmission of digital data in vertical blank interval (VBI) between successive frames of the video, as disclosed in Col. 2 Lines 32-52 and Figs. 1, 8a-8c; with further reference to Col. 12 Lines 24-38)*,

See Final Office Action at pages 4-5. The Examiner relies on Col. 2 Lines 32-52 and Figs. 1, 8a-8c, with further reference to Col. 12 Lines 24-38 of Shoff. In col. 2 (with reference to Fig. 1), Shoff discloses that the Internet data (which the Examiner analogizes to Applicant's "synchronized functionality") can be a Web page and can be combined with the video data to form a single signal. The Applicant notes that Shoff's supplemental information (e.g., the Web page) is in hypertext format, which is obviously different from the format of the television video data being displayed in pane 16.

Based on the above bolded citation, the Examiner has also equated Applicant's "synchronized functionality" with Shoff's "target resource." As explained by Shoff, the "target resource" contains digital data, which "defines the supplemental content to enable viewer interactivity". The digital data also defines a display layout prescribing how the supplemental content and the video program are to appear, and defines timing information to synchronize presentation of the supplemental content with the video content program. See Shoff at col. 9, line 66 – col. 10, line 17. However, even though the digital data facilitates the display of the supplemental information, the digital data is not the actual supplemental information. As explained in the 11/06/08 response, Shoff's supplemental information is constructed as a hypertext file, which is rendered by a browser at the viewer location and is of different format when compared with the received television signal.

Therefore, the Applicant maintains that Shoff does not disclose or suggest at least the limitation of "the broadcast television program and said at least one synchronized functionality being of the same format and for display on a television screen within a home," as recited by the Applicant in independent claim 1.

Furthermore with regard to the rejection of independent claim 1 under 35 U.S.C. § 102(e), the Applicant submits that Shoff does not disclose or suggest at least the limitation of "wherein said at least one synchronized functionality originates from the same broadcast provider location as the broadcast television program," as recited by the Applicant in independent claim 1.

The Final Office Action states the following:

said at least one synchronized functionality comprising at least one user-selectable option ("Display Icon Indicating Interactive" at Step 162, which is displayed based on a determination of the existence of interactive data at Step 152 from EPG, as described in Col. 8 Line 62-Col. 9 Line 40), and wherein said at least one synchronized functionality originates from the same broadcast provider location as the broadcast television program (Video Programs 40, Program Information 46, and Supplemental Content 54 distributed from Headend 22 of Fig. 2, as described in Col. 4 Line 42-Col. 5 Line 60; with further reference to Fig. 9 showing the method of authoring an interactive entertainment program, as described in Col. 12 Line 39-67);

See the Final Office Action at page 5. Referring to FIG. 2 of Shoff, the headend 22 provides on-demand video streaming of video programs stored in the database 40 within the continuous media server 42. The headend 22 can also communicate broadcast video signals to its subscribers. However, the broadcast video signals are retransmitted since they originate from a satellite feed or a cable system feed, i.e., remotely from the headend 22. In this regard, the broadcast video signals and the supplemental content do not originate from the same broadcast provider location.

Even if we assume that Shoff's broadcast video signals and supplemental content originate from the same location, Shoff is still deficient since, as already explained above, it does not disclose that the broadcast television program and the supplemental information are of the same format.

Therefore, the Applicant maintains that Shoff does not disclose or suggest at least the limitation of "wherein said at least one synchronized functionality originates

from the same broadcast provider location as the broadcast television program," as recited by the Applicant in independent claim 1.

Accordingly, independent claim 1 is not anticipated by Shoff and is allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the reference cited in the Office Action at least for the reasons stated above with regard to claim 1.

B. Rejection of Dependent Claims 2-10, 12-20, and 22-31

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11, and 21 under 35 U.S.C. § 102(e) as being anticipated by Shoff has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-10, 12-20, and 22-31 depend from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-10, 12-20, and 22-31.

In general, the Final Office Action makes various statements regarding claims 1-31 and the cited reference that are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly

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reserves the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

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CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 1-31 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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